

Equal Employment Opportunity (EEO)

EEO complaint process for the
Defense Logistics Agency (DLA).



EEO Policy and Compliance Division, Room 1127
8725 John J. Kingman Road
Fort Belvoir, VA 22060-6221

What You Need to Know About EEO



Introduction

This booklet provides an overview of the Equal Employment Opportunity (EEO) laws and the EEO complaint process for the Defense Logistics Agency (DLA). It explains your rights, responsibilities, and remedies under those laws and the EEO complaint process. Please read it carefully.

Although this booklet contains important information, it does not include all information on discrimination complaint laws or EEO complaint process regulations. Title 29 Code of Federal Regulations (CFR) Part 1614 contains the regulations on EEO complaint processing for federal agencies, including the Defense Logistics Agency. These regulations are administered by the Equal Employment Opportunity Commission (EEOC). You can obtain information on EEO laws and 29 CFR 1614 on the Internet at www.eeoc.gov.

This booklet also provides an explanation of the Defense Logistics Agency's Alternative Dispute Resolution (ADR) program called RESOLVE. RESOLVE stands for **R**each **E**quitable **S**OLutions **V**oluntarily and **E**asily, which may offer you an opportunity to request mediation in addition to traditional EEO counseling. Detailed information about RESOLVE is available on the Internet at www.dla.mil/do.

EEO Laws

The following statutes, which are enforced by the EEOC, make it illegal to discriminate against employees or applicants for employment on the basis of race, color, religion, sex, national origin, disability, age, or genetic information. In addition, a person who files an EEO complaint, participates in an investigation of an EEO complaint, or opposes an employment practice made illegal under any of the statutes enforced by the EEOC is protected from reprisal or retaliation.

Title VII of the Civil Rights Act of 1964, as Amended

Title VII prohibits discrimination based on race, color, religion, sex, or national origin. Title VII also prohibits reprisal or retaliation for taking part in the discrimination complaint process or for opposing any unlawful employment practice under its authority.

Civil Rights Act of 1991

The Civil Rights Act of 1991, among other things, provides monetary damages up to \$300,000 in cases of intentional employment discrimination.

- Take corrective or preventive actions to cure or correct the source of the identified discrimination.
- Nondiscriminatorily place you in the position you would have occupied if the discrimination had not occurred.
- Pay compensatory damages (may not exceed \$300,000).
- Pay back pay (with interest if applicable) and lost benefits, and in many cases, attorney's fees.
- Stop the specific discriminatory practices involved.

Remedies Not Available to You Under the Law

If you are offered relief, it may not be all the relief you requested. The following remedies are not available to federal employees in discrimination cases arising under the enforcement of the EEOC and civil court:

- Punitive damages (a monetary award to you to punish the person responsible for discrimination).
- Attorney's fees if:
 - The fees are incurred before you file a formal complaint, unless the complaint goes to a hearing, the administrative judge finds in your favor, the Defense Logistics Agency decides not to carry out that decision and appeals to EEOC, and EEOC agrees with the administrative judge.
 - You fail to notify the Defense Logistics Agency that an attorney is representing you.
 - Your finding of discrimination is based only on age or is based only on an Equal Pay Act claim.
- Compensatory damages if discrimination is found only on the basis of age or only on the basis of the Equal Pay Act.
- Compensatory damages if discrimination is found based on the Rehabilitation Act if the Defense Logistics Agency made a good faith effort to provide a reasonable accommodation, regardless of whether there is a finding of discrimination.

Note: If you do not receive a DLA merit final agency decision within 120 days of the date you filed your EEO mixed case complaint, you may appeal the matter to the MSPB.

Withdrawals and Settlements

You may withdraw or settle a complaint at any stage of the process.

Withdrawing a Complaint

If you decide to withdraw a complaint, put your withdrawal in writing and sign it. If you are withdrawing your complaint during the pre-complaint process or during the formal complaint process, mail your written withdrawal to the appropriate DLA EEO office that counseled you or is processing your complaint.

Settling a Complaint

Defense Logistics Agency policy is to settle complaints informally through good faith negotiation and mutual agreement whenever possible and practicable. When you agree to settle a complaint, you are agreeing that you have received something that has value to you—in other words, something that has merit, desirability, or importance to you.

- If you wish to do so, you may seek the advice of an attorney or other qualified representative before you agree to settle your EEO complaint.
- If you agree to settle a complaint based on one or more stipulations, these must be written down, agreed on, and signed both by you and a management designee.
- EEOC regulations specify the procedures to follow if either party comes to believe the settlement agreement has been breached. Read the EEOC settlement agreement procedures for further information or consult the DLA EEO office.

Remedies

If there is a finding of discrimination in your EEO case, the remedies may include requiring the Defense Logistics Agency to:

- Post a notice to all employees advising them of their rights under the laws the EEOC enforces and their right to be free from retaliation.

Age Discrimination in Employment Act of 1967, as Amended

The Age Discrimination in Employment Act (ADEA) prohibits discrimination in employment based on age (40 years or older).

Sections 501 and 505 of the Rehabilitation Act of 1973, as Amended

Sections 501 and 505 of the Rehabilitation Act prohibit discrimination based on mental and physical disability and require agencies to reasonably accommodate the known physical or mental limitations of qualified employees or applicants with disabilities.

Equal Pay Act of 1963

The Equal Pay Act (EPA) prohibits sex-based wage discrimination. The EPA prohibits agencies from paying employees of one sex lower wages than those of the opposite sex for equal work performed under similar working conditions.

Genetic Information Nondiscrimination Act (GINA) of 2008

Under Title II of GINA, it is illegal to discriminate against employees or applicants because of genetic information. Title II of GINA prohibits the use of genetic information in making employment decisions, restricts employers and other entities covered by Title II (employment agencies, labor organizations and joint labor-management training and apprenticeship programs - referred to as "covered entities") from requesting, requiring or purchasing genetic information, and strictly limits the disclosure of genetic information.

Administrative Process for Complaints of Illegal Discrimination

Pre-complaint Process

If you are a Defense Logistics Agency (DLA) employee or applicant for DLA employment and believe you have been discriminated against because of your race, color, religion, sex, age, national origin, physical or mental disability, genetic information, or in retaliation for involvement in prior EEO activity, you have the right to initiate an EEO complaint with the Defense Logistics Agency. You must take part in the EEO pre-complaint process before filing a formal EEO complaint. The purpose of the pre-complaint process is to advise you of your rights and responsibilities under the EEO process, to identify your claims, and to try to resolve the matter informally.

Beginning the EEO Process in a Timely Manner

To begin the pre-complaint process, you must contact the DLA Equal Employment Opportunity office using the central toll-free telephone number within 45 calendar days of the alleged discriminatory action, or in the case of a personnel action, within 45 calendar days of the effective date of the action. See 29 CFR 1614.105. The central telephone number is:

877-9DLAEEO (877-935-2336)

Deaf and hard of hearing call: 888-325-2914

(Federal Relay Service)

When you call, an automated answering system will ask you to give your name, home (mailing) address, and other important information. A packet of information that includes the Pre-Complaint Intake form (DLA Form 1877), and EEO information will be mailed to you.

Once you receive and read the information packet, you should decide if you want to move forward with the complaint process. If you decide to do so, you should send back all relevant forms within 10 calendar days after you received them to the address listed in your information packet. After you return the forms, an EEO staff member will contact you and continue the pre-complaint process as described in this booklet.

If you fail to return the forms within 10 calendar days of receiving them, the DLA EEO office may close the pre-complaint process because the EEO staff member does not have enough information to process your counseling request.

Representation

You may designate a representative at any stage of the complaint process, including the pre-complaint counseling stage. However, your designation of a specific representative may not cause undue delay to the EEO process or unwarranted expense to the Defense Logistics Agency. Further, the designation of a representative that may create a conflict of interest may not be allowed. You must designate your choice of a representative in writing.

Official Time

Employee complainants and their designated representatives, if also employed by the Defense Logistics Agency, may expect a reasonable amount of official time to present the complaint and to respond to

Filing a Mixed-Case EEO Complaint With the Defense Logistics Agency

If you decide to file a formal mixed-case EEO complaint with the Defense Logistics Agency you must participate in the pre-complaint process. If your issues are not resolved in the pre-complaint process, then you must follow the usual procedures for filing a formal EEO complaint as outlined in your notice of right to file a formal complaint.

If your formal EEO complaint is accepted, it will be assigned to an EEO investigator. After the investigation is completed, you will receive a copy of the investigative file and a notice advising you that you will receive a Defense Logistics Agency merit final decision within 45 calendar days. *You do not have the option to request a hearing from the EEOC in a mixed-case complaint.* For mixed-case complaints, both the investigation and the merit final agency decision should be completed within 120 calendar days of the date you filed your formal complaint.

You may appeal the Defense Logistics Agency merit final agency decision as follows:

- Within 30 calendar days of your receipt of the final DLA decision, you may appeal that decision to the MSPB (not the EEOC). If you appeal the final DLA decision to the MSPB, you may request a hearing from the MSPB. You will receive a final MSPB decision.
- If you appealed the DLA final agency decision to the MSPB and disagree with the final MSPB decision on your appeal, you may petition the final MSPB decision regarding the discrimination aspects of your case to the EEOC OFO to consider that decision.
- If the EEOC OFO written decision differs from the MSPB decision and the MSPB does not adopt the EEOC OFO decision on your appeal, the matter will be referred to a Special Panel.
- At each of the appeal steps shown above, the complainant may choose to file a civil action in district court instead of taking the next step in the administrative appeal process. That is, the complainant may file a civil action within 30 calendar days of his or her receipt of: (1) the final DLA decision, (2) the MSPB's final decision, (3) the EEOC OFO decision, or (4) the decision of the Special Panel.

System, OPM employment practices, OPM suitability determinations or suitability determinations by other agencies when that authority has been delegated by OPM, denials of restoration or reemployment rights, and terminations of probationary employees under certain circumstances. A complete list of the matters over which the Board has been given jurisdiction is contained in the Board's regulation at 5 C.F.R. § 1201.3 found at www.mspb.gov

Processing Mixed-Case Complaints

You may receive pre-complaint counseling on mixed-case issues, but you may not file both a formal EEO mixed-case complaint with the Defense Logistics Agency and a mixed-case appeal with the MSPB at the same time. What you choose to do first, that is, file an appeal with MSPB or file a formal EEO complaint of discrimination, determines where and how your claim is processed.

Filing a Mixed-Case Appeal With the MSPB

If you are eligible to file an appeal with the MSPB, and you decide to do so, you must file your appeal within 30 calendar days of the adverse disciplinary or personnel action involved. Additional information on how to file an MSPB appeal can be found at www.mspb.gov.

If you file a mixed-case appeal and it is accepted by the MSPB:

- You may request a hearing from the MSPB. You will receive a final MSPB decision.
- You may appeal the final MSPB decision regarding the alleged discriminatory act to the EEOC OFO. You will not receive a hearing by the EEOC on your appeal — you will receive a written EEOC OFO decision.
- If the EEOC OFO written decision on your appeal differs from the final MSPB decision, and the MSPB does not adopt the EEOC's decision on your appeal, the matter will be referred to a Special Panel.
- At each of the appeal steps shown above, the complainant may choose to file a civil action in district court instead of choosing the next administrative appeal step. That is, the complainant may file a civil action within 30 calendar days of his or her receipt of: (1) the final MSPB decision, (2) the EEOC OFO decision, or (3) the decision of the Special Panel.

agency requests for information, if they are in a duty status. The term duty status refers to an employee's normal hours of work. What constitutes a reasonable amount of official time may vary from case to case. However, with regard to preparation time, reasonable refers to hours or portions of hours. Employees seeking official time for EEO-related matters must receive advance approval from their immediate supervisors.

If DLA officials or EEOC officials require their attendance, employee complainants and their designated employee representatives may attend EEO meetings or hearings on official time. DLA employees seeking official time to attend an EEO meeting must present written requests to their immediate supervisors before the scheduled meeting.

Maintaining Anonymity

You may remain anonymous during the pre-complaint process. If you request anonymity, the DLA EEO office will honor your request. However, in some instances, such as certain harassment cases, the DLA EEO office is required to divulge information regarding your pre-complaint to appropriate DLA officials.

Taking Part in the Pre-complaint Process — Counseling

The EEO staff member explains the EEO complaint process including time frames, your rights and responsibilities in the process, and appeal procedures. The EEO staff member also works with you to identify and define your claim(s). Your claim(s) is(are) the action(s) that caused you to believe you were discriminated against. In addition, the EEO staff member explains your option to engage in mediation during the pre-complaint process. See the next section for more information about DLA's alternative dispute resolution program called RESOLVE. The EEO staff member is a neutral party and is not permitted to act as an advocate for either you or the agency.

The EEO staff member conducts informal inquiries and does not usually obtain extensive documentation or written testimony. The EEO staff member generally conducts EEO counseling by telephone, but may conduct it by mail or in person. During counseling inquiries, the EEO staff member usually communicates separately with you and the other party in the dispute. However, if both parties agree, the EEO staff member may communicate or meet with you and the other party at the same time.

The EEO staff member makes necessary inquiries of DLA employees and supervisors. He or she also reviews relevant agency regulations

and documents, including comparative employee data, to help him or her understand the issues and resolve the matter. The EEO staff member cannot reveal the identity of the comparative individuals.

The goal of counseling is an agreeable resolution to the issue. In trying to resolve your dispute, the EEO staff member may discuss settlement alternatives with you and the other involved party. Settlement discussions are confidential. A willingness to discuss resolution does not suggest that either party feels that his or her position is wrong or weak.

- If the matter is not resolved within 30 calendar days from the date on which you first seek EEO counseling, the EEO staff member may ask you to agree to extend the counseling period. The extension cannot be longer than 60 calendar days, resulting in no more than 90 total calendar days in the counseling period. Your agreement to extend the counseling period must be in writing.
- If the matter is not resolved at the end of the counseling period, including the extended period (if you have agreed to it), the EEO staff member conducts a final interview and issues you a notice of right to file a formal complaint. The notice is generally issued by mail.

RESOLVE — Reach Equitable SOLUTIONs Voluntarily and Easily

When you seek EEO counseling, the EEO staff member will tell you about RESOLVE, an alternative dispute resolution process that provides an opportunity for you and the appropriate management official to discuss your complaint with the help of a professionally trained mediator. RESOLVE mediators help the parties to identify the core issues of their dispute and explore possible solutions. Employees usually find this opportunity for direct communication and conflict resolution satisfying and effective.

Your participation in RESOLVE is voluntary and may be done on the clock. The Defense Logistics Agency pays the cost of the mediator. The mediator keeps everything said in mediation confidential.

Some issues are not appropriate for RESOLVE. The EEO office will tell you when the issue you have raised is inappropriate.

When the EEO staff member offers you the option to take part in RESOLVE and you agree in writing to do so, the pre-complaint

- After 180 calendar days from the date of filing your formal complaint if you have not filed an appeal with the OFO and DLA has not issued you a final action regarding an administrative judge decision or issued you a final agency decision.
- Within 90 calendar days after you receive the OFO's final decision on an appeal.
- After 180 calendar days from the date of filing an appeal with the OFO if the OFO has not issued a final decision.

Equal Pay Act Cases

You may file an Equal Pay Act (EPA) wage discrimination lawsuit in a court of competent jurisdiction without filing a sex-based administrative complaint under the EPA or Title VII. Alternatively, you may choose to file a sex-based administrative complaint of wage discrimination with the Defense Logistics Agency under the EPA, Title VII, or both.

Mixed EEO and Merit Systems Protection Board Cases

Definition of Mixed Case

A *mixed case* occurs when an employee has an action that is appealable to the U.S. Merit Systems Protection Board (MSPB) and also is appealable through the EEO complaint process because the employee claims the action was taken as the result of discrimination based on race, color, religion, sex, age, national origin, physical or mental disability, genetic information, or in retaliation for involvement in prior EEO activity. If you have a mixed case, you have the option of filing a mixed-case appeal with the MSPB or filing a mixed-case EEO complaint with the Defense Logistics Agency, but not both.

Eligibility for an MSPB Appeal

The majority of cases within the MSPB's jurisdiction are appeals of adverse actions: removals (termination of the employment relationship for cause), suspensions of more than 14 days, reductions in grade or pay, and furloughs of 30 days or less. Other types of actions that may be appealed to the MSPB include: performance-based removals or reductions in grade, denials of within-grade salary increases, reduction-in-force actions, final administrative actions or decisions affecting an individual's rights or interests under the Civil Service Retirement System or the Federal Employees' Retirement

Notices of intent to sue must be filed in writing with the EEOC. Mail the notice of intent to sue under the ADEA to:

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
OFFICE OF FEDERAL OPERATIONS
PO BOX 77960
WASHINGTON DC 20013**

Alternatively, if the notice is 10 pages or fewer, you may fax it to: 202-663-7022.

The notice of intent to sue should be dated and must contain the following information:

1. Statement of intent to file a civil action under Section 15(d) of the Age Discrimination in Employment Act of 1967, as amended.
2. Name, address, and telephone number of the employee or applicant.
3. Name, address, and telephone number of the complainant's designated representative, if any.
4. Name and location of the DLA organization where the alleged discriminatory action occurred.
5. Date on which the alleged discriminatory action occurred.
6. Statement of the nature of the alleged discriminatory actions.
7. Signature of the complainant or complainant's representative.

Reminder: After the notice of intent to sue is timely filed, you must wait at least 30 calendar days before filing your civil action.

Filing a Formal EEO Complaint Under the ADEA

If you choose to file a formal EEO complaint under the EEO administrative complaint processing procedures, you must complete certain steps in the EEO administrative process before you may file a civil action in a United States district court. You may file a civil action in an appropriate United States district court only:

- Within 90 calendar days of receipt of either the DLA's final action on the complaint or its final agency decision, provided you have not appealed to OFO.

processing period is 90 calendar days from the date of your initial contact with the EEO office.

- If the matter is not resolved within 90 calendar days, the EEO staff member issues you a notice of your right to file a formal complaint.
- You may have discussed many issues during your RESOLVE mediation session, but only those issues that you included in your timely request for EEO counseling and discussed with the EEO staff member may be included in a formal EEO complaint.

Formal EEO Complaint Process

Losing Your Right to Anonymity

If you decide to file a formal EEO complaint, your identity will not be kept confidential during the formal complaint process. When a complaint reaches the formal stage, the complaint file may be opened to those parties who are involved and who require access to it.

Filing a Formal EEO Complaint in a Timely Manner

To file a formal complaint, you must put your complaint in writing and sign it. Your attorney, if one represents you, may sign it instead. If someone who is not an attorney represents you, you must sign the complaint yourself and designate your representative in writing.

EEOC regulations require that EEO complaints against the Defense Logistics Agency must be filed with DLA.

- You may use DLA Form 1808, Formal EEO Complaint of Discrimination in the Federal Government, to file your formal EEO complaint.
- To be timely, you must mail your formal EEO complaint to the DLA Equal Employment Opportunity office to the address that appears in the Notice of Right to File, and postmarked no later than 15 calendar days after you receive the Notice of Right to File.

Prohibition Against Using Federal Government Equipment

Do not mail your complaint using DLA's envelopes or payment of postage by DLA.

Do not use office equipment such as photocopiers or facsimile machines to prepare or send EEO complaint documents without authorization by the agency.

Changing Your Mailing Address

If you change your mailing address, notify the DLA EEO office in writing.

If you fail to keep the DLA EEO office informed of your current address, your complaint may be dismissed.

Receiving Acknowledgment and Acceptance of the Complaint

The DLA EEO office will send you a letter to acknowledge that your complaint was received. You also will receive a separate letter telling you if the claim or claims in your complaint were accepted for investigation. If your entire complaint is not accepted, you will receive a letter explaining the reasons for the dismissal of your complaint and outlining your appeal rights should you disagree. (See *Appealing the Decision or Filing a Civil Action*)

If the Agency believes that some but not all of the claims in your complaint should be dismissed, you will receive a letter outlining the claims that will be investigated and identifying the claims that will be dismissed. You may not appeal the dismissed claims at that time. The letter you receive will explain when and how you may appeal any dismissed claims.

Waiting for Investigation of the Complaint

If the Defense Logistics Agency accepts your complaint or any part of it, DLA assigns the complaint to an EEO investigator. The EEO investigator collects factual information about the accepted issues and prepares a report. The EEO investigator is responsible for gathering evidence. He or she does not take the side of any of the parties involved in the dispute. EEO investigations are not DLA employees. The investigative report does not contain the complaint investigator's opinion on the merits of the case or his or her conclusion on a claim of discrimination.

While your case is in the investigative stage, you may ask to amend the issues accepted so the report includes an investigation into like or related issues. Your request must be put in writing and mailed or delivered to the servicing DLA EEO office that is processing your complaint.

appeal with the OFO begins when you receive the final agency decision or final action.

Filing a Civil Action

You may file a civil action in an appropriate United States district court:

- Within 90 calendar days of receipt of either the DLA's final action on the complaint or its final agency decision provided you have not appealed to OFO as described above.
- After 180 calendar days from the date of filing your formal complaint if you have not filed an appeal with the OFO and the Defense Logistics Agency has not issued you a final action regarding an administrative judge's decision or issued you a final agency decision.
- Within 90 calendar days after you receive the OFO's final decision on appeal.
- After 180 calendar days from the date of filing an appeal with the OFO if the OFO has not issued a final decision.

Age Discrimination in Employment Act Cases

Option to File a Formal EEO Complaint or a Civil Action

If you believe that you have been discriminated against based on age (40 years or older), you have the right to either: (1) file a formal EEO complaint under the EEO administrative complaint processing procedures described in this booklet, or (2) bypass the EEO administrative complaint processing procedures and file a civil action in the appropriate United States district court pursuant to the Age Discrimination in Employment Act (ADEA).

Filing an ADEA Civil Action

If you decide to file a civil action, first you must give the EEOC a written notice of intent to sue under the ADEA. You must file the notice with the EEOC within 180 calendar days of the date of the action you believe to be discriminatory. When you have filed the notice of intent to sue in a timely manner, you must wait at least 30 calendar days before filing a civil action.

Final Agency Action After a Hearing (Decision by an EEOC Administrative Judge)

After a hearing (a decision by an EEOC administrative judge), you should receive a final action from the Defense Logistics Agency regarding the administrative judge's decision. You have 30 calendar days from the date you receive DLA's final action to appeal that final action or to appeal the EEOC administrative judge's decision to the OFO.

If DLA does not issue a final action within 40 calendar days from the date it receives the administrative judge's decision, you may appeal the administrative judge's decision to the OFO within 30 calendar days of the expiration of DLA's 40-day review period.

Merit Final Agency Decision After Investigation

If you receive a merit final agency decision from DLA following the conclusion of the investigation, you may appeal that final agency

decision to the OFO within 30 calendar days of the date you receive it.

Appeal Form and Process

Send appeals to the OFO on EEOC Form 573, *Notice of Appeal/Petition to the Equal Employment Opportunity Commission*. This form and the address for the OFO will be provided to you with any final agency action or final agency decision you receive. EEOC Form 573 can also be found at www.eeoc.gov.

You must send a copy of your EEOC Form 573 appeal to the Defense Logistics Agency on the same day you send that appeal to the OFO. You must be able to provide proof that you sent a copy to the Agency. Send the copy of your EEOC Form 573 appeal to the Defense Logistics Agency at the following address:

**Defense Logistics Agency
Equal Employment Opportunity Office (DO)
8725 John J. Kingman Road, Room 1127
Fort Belvoir, VA 22060-6221**

Timeliness

If your representative is an attorney, the deadline for filing an appeal with the OFO begins when your attorney receives the Agency's final agency decision or final action. If you are not represented by an attorney during the complaint process, your deadline for filing an

You should make your request within 45 calendar days of the date of the incident that you believe was discriminatory, or if a personnel action, within 45 calendar days of the effective date of the action. The Defense Logistics Agency uses the postmark date to determine the timeliness of your request. The DLA EEO office will reply to your request to amend your complaint.

If you wish to document that the Agency received your amendment request, you may mail it using Certified Mail,TM Delivery Confirmation,TM or another service that provides documentation of the addressee's receipt of the piece of mail. If you have more than one complaint at the formal stage, the Defense Logistics Agency may consolidate them into one investigation.

If you are dissatisfied with the way the DLA EEO office is processing your complaint, you may put your objections in writing and then mail your letter to the DLA Policy and Compliance Division at the following address:

**Defense Logistics Agency
EEO Policy and Compliance Division, Room 1127
8725 John J. Kingman Road
Fort Belvoir, VA 22060-6221**

You will receive a written response. The EEO Policy and Compliance Division will add both your letter of objection and the Defense Logistics Agency's written response to the investigative case file.

The EEO investigator typically completes the investigation within 180 calendar days of the date the complaint was filed, unless you and the Defense Logistics Agency voluntarily agree in writing to extend the time up to an additional 90 calendar days.

However, if two or more complaints are consolidated for investigation, or if a complaint under investigation is amended to include additional like or related issues, the investigation may continue for up to 360 calendar days after the filing date of the original complaint.

Cooperating With the EEO Investigator

The EEO investigator takes testimony from relevant persons in affidavit form under penalty of perjury. Your appointed representative may help draft the language for your affidavit, but only you can sign it. Your statement must be true and correct.

The EEO investigator asks you to provide evidence about the remedies to which you believe you are entitled. You must provide relevant evidence about the remedy, including medical reports and other personal documents.

Providing information that an EEO investigator requests is mandatory both for you and any DLA employee witnesses. If you do not provide the information the EEO investigator requests, your complaint may be dismissed.

Filing Both a Complaint and a Grievance

You cannot file both an EEO complaint and a negotiated grievance procedure covering the same matter. The employee shall be deemed to have exercised his or her option, when, on or after the effective date of the appealable action, the employee timely pursues a formal written EEO complaint or initiates a notice of MSPB appeal under the statutory procedures or pursues a written grievance in accordance with the negotiated grievance procedure, whichever event occurs first.

Requesting a DLA Final Agency Decision or an EEOC Hearing

When the investigation is complete, you will receive a copy of the investigative file and a notice explaining your options at this point in the EEO process. The notice explains that within 30 calendar days of the date you receive the investigative file, you may request either a hearing before an EEOC administrative judge or a final Defense Logistics Agency decision without a hearing based on the EEO case file (a merit final agency decision).

Procedures for Requesting an EEOC Hearing

To request an EEOC hearing, send your request directly to the EEOC district office that serves your geographic area within 30 calendar days of your receipt of the investigative file. Be sure to send a copy of your request to the DLA EEO office that processed your complaint at the same time. The addresses of both offices will be included in the letter that you receive with your investigative file.

If you request a hearing in a timely manner, the DLA EEO office will send your EEO complaint file to the EEOC. The EEOC then decides whether it will conduct a hearing on some or all of the issues in the case or whether an EEOC administrative judge will issue a decision based on the record in the case. In either case you will receive a decision from an EEOC administrative judge.

The EEOC administrative judge will send the hearing record, if applicable, and copies of his or her decision containing findings of fact

and conclusions of law to you and to the Defense Logistics Agency. The Defense Logistics Agency has 40 calendar days from the date of its receipt of the administrative judge's decision to issue you its Notice of Final Action (final action) on your EEO case.

The DLA's final action may be to carry out the administrative judge's decision, in full or in part, or to decline to carry out the administrative judge's decision. If DLA decides that its final action will not fully carry out the administrative judge's decision, then DLA must file an appeal with the EEOC. The Defense Logistics Agency will mail its final action to you and provide you with applicable appeal rights within 40 calendar days of its receipt of the administrative judge's decision.

Procedures for Requesting a DLA Final Agency Decision (Merit Final Agency Decision)

To request a final agency decision from the Defense Logistics Agency without a hearing based on your case file, (a merit final agency decision) send your request directly to the DLA EEO office that processed your complaint within 30 calendar days of your receipt of the investigative report. The applicable address for the DLA EEO office will be included in the notice that you receive with your investigative file. The Defense Logistics Agency will issue a merit final agency decision on your EEO complaint within 60 calendar days of receiving your request.

Procedures When You Fail to Make a Request

If you do not request either a hearing by the EEOC or a merit final agency decision by the Defense Logistics Agency, you will receive a merit final agency decision by DLA within 60 calendar days of the end of the 30-day period that you were given to respond to the notice explaining your options.

Appealing the Decision or Filing a Civil Action

Appealing to the EEOC Office of Federal Operations

Dismissal

If your entire complaint was not accepted for investigation and you receive a DLA final agency decision dismissing it, you may appeal the dismissal decision to the EEOC Office of Federal Operations (OFO) within 30 calendar days of receipt of the dismissal.